
ABSTRACTS

KULCSÁR, KÁLMÁN

INTERNATIONAL INTEGRATION AND THE EUROPEAN UNION

The organisations and authorisations of the EU are complicated. It is primarily due to the fact that they are based on international treaties concluded at different points of time, and the differences could not be eliminated either by the so-called Single European Act (1985), or by the Maastricht Treaty (1991). The task of the intergovernmental conference, which held its discussions in 1996-97, prior to expansion, was to deepen the structure and to regulate the procedures, together with the perspective of broadening the Union. (To the complexity of the related problems – though not all the problems appear in the intergovernmental conference – see Holland 1993.) As a consequence of the rigid stand of the British Conservative government, this meeting did not produce too many results. Therefore great expectations preceded the manifestations of the Labour government, which won an overwhelming majority in the elections held on May 1, 1997, however, it has not shown the much hoped for, more flexible behaviour. There has undoubtedly been progress (though it was just the new British government which has postponed accession to the common currency), but the question is whether there can be a real break through in the near future, just because the conference has postponed making a decision in the most significant problems. Therefore it is also a question whether the European Union, which has specified its *political nature* already in Maastricht, would be able to act truly effectively on all its three 'pillars'. (The three pillars confirmed in Maastricht are: the European Community, co-operation in foreign and security policy, and co-operation in the field of justice and home affairs.)

BALOGH, ISTVÁN

INTEGRATION INTO EUROPE: AN EXAMPLE OF 'POST-CLASSICAL MODERNISATION'

After the Hungarian NATO referendum and as an outcome of continuous negotiations with the European Union, there is no more

doubt about the Euro-Atlantic integration of Hungary and at least of two other East Central European countries. In this situation, however, several more and new questions arise, regarding the form of integration and its impact on the countries, for which integration can be interpreted as a new way of modernisation. Integration also has a considerable impact on the European Union. In the immediate future many basic and long term questions should be posed and answered in Hungary. In this paper four questions are outlined. First, what kind of impact will the integration make on the different social spheres, on culture, on the institutional system and the social structure. Second, what kind of changes we have seen going on in modern Western democracies, may serve as a pattern for the process of modernisation in Hungary. Third, what kind of differences are between 'traditional' and on-going modernisation in Hungary. Finally, what kind of changes can be expected to come about in the structure and internal relations of the European Union with the integration of Hungary and other East Central European countries.

NAVRASICS, TIBOR

PROBLEMS OF DEMOCRACY IN THE EUROPEAN UNION

The paper summarises some of the most important questions of political democracy on European level from the point of the view of future accession of Hungary and other East and Central European countries to the European Union (EU). Beside its economic rationale, political motivation has always been playing a crucial role in the European process of integration. Although pushed into the background until the mid-eighties, the idea of a unified political community on a European level has been present among the official goals, defined in the Rome Treaty as an 'ever closer union'. Proponents of political integration consider the integration process constrained only to its economic aspect as lop-sided. According their argument European integration can never fulfil its aims unless political integration, epitomised by a European federative state, comes into being.

The paper examines three inextricably intertwined problems related to democracy at EU-level. First I discuss different concepts about the need of creating a political legitimation for the integration project. Second, I outline the development of the two most important issues of democracy rooted in the problem of political legitimacy, those of democratic deficit and Union citizenship. The main question discussed here is whether a political democracy can be established without a more or less homogenous ethnos or demos.

The final part of the paper summarises the unusual difficulties Hungary will have to face during its preparation for EU-membership. In breaking up the whole complex of tasks aiming at Hungary's preparation, we can find that while at policy level the process is at an advanced stage, polity and politics adjustment is lagging behind. This

lop-sidedness of Hungary's preparation is exacerbated by the mass media which constrain publicity for EU membership only to policy issues. If Hungary's accession to the EU would be perceived only as a policy adjustment, it would revenge itself in the future. If a comprehensive strategy that involves all issues from detailed policy questions to the problems of 'high politics' is missing, it may result in a disadvantageous position during the negotiations. After Amsterdam, considering the political development within the EU both in terms of institutional questions, i.e. the issue of democratic deficit, and of the problems of demos, that is the creation of EU-citizenship (a more intensive involvement of the European Parliament in the decision-making processes, the extension of Union citizenship, etc.), it can be argued that without any serious theoretical and practical preparations accession to the EU would be a highly destructive shock for the Hungarian public.

ILONSZKI, GABRIELLA

PARLIAMENTARY INSTITUTIONS IN EUROPE AND HUNGARY. THE IMPACT OF EUROPEAN INTEGRATION

The Hungarian Parliament will be affected by the processes of European integration. What is more, the preparation for this process has already begun. Thus, first a separate section examines what steps have been taken by the Hungarian Parliament so far to prepare for the integration process. The experiences of the countries that have recently entered the Union and the examples of the potential new entrants from East Central Europe are used as a basis of comparison.

Next the paper seeks to examine in more detail the different aspects and possible consequences of integration in the following areas: a) functional changes that will possibly take place in the Hungarian Parliament; b) personnel consequences, particularly in the context of the development of a Euro-political class; c) professionalisation in terms of efficiency and working style in the Hungarian Parliament; and d) policy consequences, including the decision-making environment that the Hungarian Parliament (similarly to other national parliaments) will have to face before and during the integration process. The section dealing with the functional dimension cannot avoid analysing the issue of the 'democratic deficit' with the role of the national parliaments in focus. The development and characteristics of the Euro-political class might be instructive for the present Hungarian political elites (particularly the parliamentary and party elites) and leading political institutions as well. The professionalisation trends in the European Parliament draw attention to the tasks of our national Parliament. Finally, the adaptation to the decision-making processes is essential so that Hungary may gain from integration.

The paper concludes that although in the multi-actor environment of the EU the supranational institutions seem to be the leading force,

national institutions also have an impact on the evolving European scene. Thus, strategically the capacities of the Hungarian Parliament should develop to achieve this aim.

POKOL, BÉLA

EUROPEAN COMMUNITY AND HUNGARIAN PARLIAMENTARISM

The paper analyses the effects of the accession of Hungary to the European Union on the Hungarian constitutional institutions. In the first part the most important features of decision-making in the European Union are outlined (the diminished competency of the European Parliament, the central role of the Commission and the Council of the European Union, the expansive style of the decisions of the Court of Justice of the Union and so forth.) The paper analyses the changing attitudes of the Constitutional Courts of the member-states of the Union to the increasingly expansive competencies of the European Union and points out the growing resistance of these organs to the expansion of the competencies of the Union. After the earlier decisions of the French and Italian Constitutional Courts the decision of the German Constitutional Court on the Maastricht Treaty will be analysed.

In the second part of the paper the changing position of the Hungarian Parliament after accession will be analysed. There are two possibilities of controlling decision-making in Brussels. The first solution gives exclusive control to the government, but the second one makes it possible for the Hungarian Parliament too. The paper stands for the second solution.

In the final part of the paper the changing operation of the Hungarian Constitutional Court after accession will be analysed and the eventual conflicts between the Court of Justice and the Hungarian Constitutional Court are emphasized.

CSIZMADIA, ERVIN

HUNGARIAN POLITICAL PARTIES AND WESTERN EUROPE

This paper is an attempt to investigate the political programmes of the Hungarian parliamentary parties, especially from a particular aspect. The author would like to present what the parliamentary parties' views are about the processes of joining the West European countries, the European Community, and NATO.

The documents involved in the investigation were published by the parties in the period between 1992 and 1997. The analysis focused on registering the changing and the permanent elements of their concepts, and on recording the long lasting correspondence and differences respectively.

The hypothesis is that there has been consensus about the basic questions (e.g. joining the European institutions) in the second half of

the nineties. At the same time there have been differences between the parties regarding the emphasis on the national characteristics.

The paper demonstrates in detail the most typical argumentative strategy of the 'national' parties for the enforcement of the national stand, and the arguments of the other side. The author differentiates between the national and the cosmopolitan parties and the methods of their argumentation. The result of the analysis does not support popular opinion that integration into globalising Europe is taking place at the cost of national interests, and the Hungarian governmental elite do not enforce the national stand in the international negotiations. The programmes of the liberal and socialist parties include a large number of important statements to protect the national interests.

According to a further conclusion of the paper there is substantial difference between their opinion concerning the actual schedule of joining. Some parties simply declare the importance and value of joining the Euro-Atlantic region and its institutions, but do not deal with the actual tasks, the probable effects and outcomes. Others endeavour to lay stress on the methods applied daily, governmental steps, and to specify the circles of the winners and losers. The former is mainly the strategy of the opposition parties, the latter is that of the governing ones. Nevertheless, the contrast between their approach is not irreconcilable.

The final conclusion of the paper makes it clear that the Hungarian parliamentary parties are capable of self-restriction and their ideological differences have not spread over foreign politics.

PACZOLAY, PÉTER

MODELS OF CONSTITUTIONAL REVIEW AND THE EUROPEAN UNION

In the countries of the Western world different solutions have been established to examine the constitutionality of legislative acts. The two 'pure' models mentioned by theorists are the American *judicial review* of legislation, exercised by all judges in concrete cases and controversies, and the European *Verfassungsgerichtsbarkeit*, outlined first by Hans Kelsen, where the main aim of the procedure is to guarantee the constitutionality of the entire legal system, and a special organ, the Constitutional Court is set up for that purpose. Although the existence of Constitutional Courts, or bodies with equivalent jurisdiction is increasingly widespread, and their role has a growing importance in the respective political systems, there are no uniform rules, or prerequisites for the establishment of such organs. The member-states of the European Union also highly diverge in their institutional settlements. Germany, Italy, Austria, Spain, and Portugal have strong Constitutional Courts with the usual jurisdiction in keeping with the Kelsenian model. In France the jurisdiction of the Conseil Constitutionnelle includes only the preliminary review of parliamentary acts. In Great Britain the lack of a written and rigid constitution precludes the possibility of

constitutional review, in The Netherlands the constitution excludes it, while in Finland a parliamentary commission reviews the constitutionality of the laws.

In the ten countries applying for membership the institutional solutions of Constitutional Courts are more uniform. The exceptions are Latvia (which restored its Constitution of 1922), and Estonia. The other countries have active Constitutional Courts which are members of the European Conference of Constitutional Courts, an international organisation monitoring and scrutinizing whether a Constitutional Court exercises real jurisdiction and is independent.

The Hungarian Constitutional Court is generally considered as an active (and even activist) court with wide jurisdiction. This observation is correct in so far as it regards the abstract review of legal provisions. Access to the Court is really unusually wide, due to the *actio popularis*, on the other hand the Hungarian Court has basically no powers to remedy violations of individual rights as a consequence of administrative acts, or judicial decisions. In other words, there is no constitutional complaint similar to the German, Spanish or Austrian solutions.

The Hungarian one was the first Constitutional Court functioning in a former Socialist country which was admitted to the European Conference of Constitutional Courts, and which organised the Conference in 1996. The Court's activity and performance is more respected both in the Western and in the newly democratic countries than at home. The Commission of the European Communities in its *Opinion on Hungary's application for membership* has also recognised that "since 1989 the Constitutional Court has been keeping a check on the constitutionality of laws and international treaties". The *Opinion* calls attention to the difficulty of electing constitutional judges, and to the respective responsibility of the political parties represented in Parliament.

The Court has been found very often in the midst of heated political controversies, a feature that is general in other countries too. Political conflicts are continuously converted by politicians into legal cases and transferred to the Court. So far there have been unsuccessful attempts to curtail the Court's powers, or encumber its functioning. But these, as the Commission's *Opinion* shows, have not avoided the attention of the European Union.

ÁGH, ATTILA

THE DECISION-MAKING INSTITUTIONS AND PROCESSES OF THE EU PUBLIC POLICY

After the Maastricht Treaty (Treaty on the European Union) a new political science discipline has emerged in the West on EU public policy, as with the new step of integration a large body of the European policy-making system is being organised. The paper analyses this new field,

based on dozens of new volumes of papers written after the TEU, from the point of view of the Hungarian accession to the EU. The first chapter describes the first stages of the EU development from the Treaty of Rome to the present situation, the stages of partnership, intergovernmentalism and competitive institutions in the EU public policy. The second chapter deals with policy-making in the main institutions - Council, Commission, and European Parliament -, the third one with the regulatory institutions 'below' them as the Ecosoc Regional Council and the agencies. The fourth chapter discusses the democracy deficit as a problem of efficiency of representative democracy at the EU level. Finally, the decision-making procedures of accession have been focused upon in the fifth chapter, with special regard to the criteria of accession on the one hand, and the EU institutional mechanisms on the other.

KEREKES, ZSUZSA

THE OMBUDSMAN IN THE EUROPEAN UNION AND IN HUNGARY

The ombudsman, or the parliamentary commissioner of citizens' rights, is the most recently established institution of the Hungarian political system. In the summer of 1995 Parliament elected the so-called general commissioner, the commissioner of national and ethnic minorities, and the commissioner of data protection and free information. Both the quality of laws that regulate this field and the experiences of the commissioners thus far prove that our institutions are Euro-conform in this respect.

The paper examines three broad areas of the issue. 1) The formation and the development of the institution of the ombudsman in Europe. Here two questions will be in focus: a) from the Swedish *Justitiekansler* to the modern Don Quixote (that is, in the face of huge bureaucracies how the institution has become a new organ for protecting rights; and how its particular functions that make it distinct both from courts and constitutional courts, have been formed); b) the classification of the institution in Europe: local, regional and national parliamentary commissioners; other institutions in the countries of the European Union, comparable to that of the ombudsman. 2) The ombudsman of the European Union. The European ombudsman is one of the supranational institutions of the European Union. Its functions, duties and activities will be analysed in detail. 3) The institutionalisation of the ombudsman in Hungary. Within this area the paper will examine a) the professional and political debates that preceded the establishment of the institution, including the election of the parliamentary commissioners; b) the laws that regulate their activity, and the duties and rights of the parliamentary commissioners; finally, c) the experiences of the commissioners' activities thus far.

SZOBOSZLAI, GYÖRGY

REPRESENTATION AND ELECTORAL SYSTEM

Political transformation into a multi-party democracy has taken place in a classical parliamentary framework in Hungary. The constitutional system is modelled after the main lines of the West European traditions: a strong Parliament, a strong prime minister, a weak president. The constitutional reform of 1989 resulted in a system of parliamentary government in which the one-chamber general assembly enjoyed a very strong political position. Its position was weakened by the introduction of the constructive veto of no confidence, but Parliament remained the heart of the structure. Although the constitution does not declare the principle of checks and balances, the judiciary is fully independent and the Constitutional Court has become an organ of real control over Parliament. The functions of representation are not questioned, but the issue of uni- or bicameralism is still debated in the constitution drafting process.

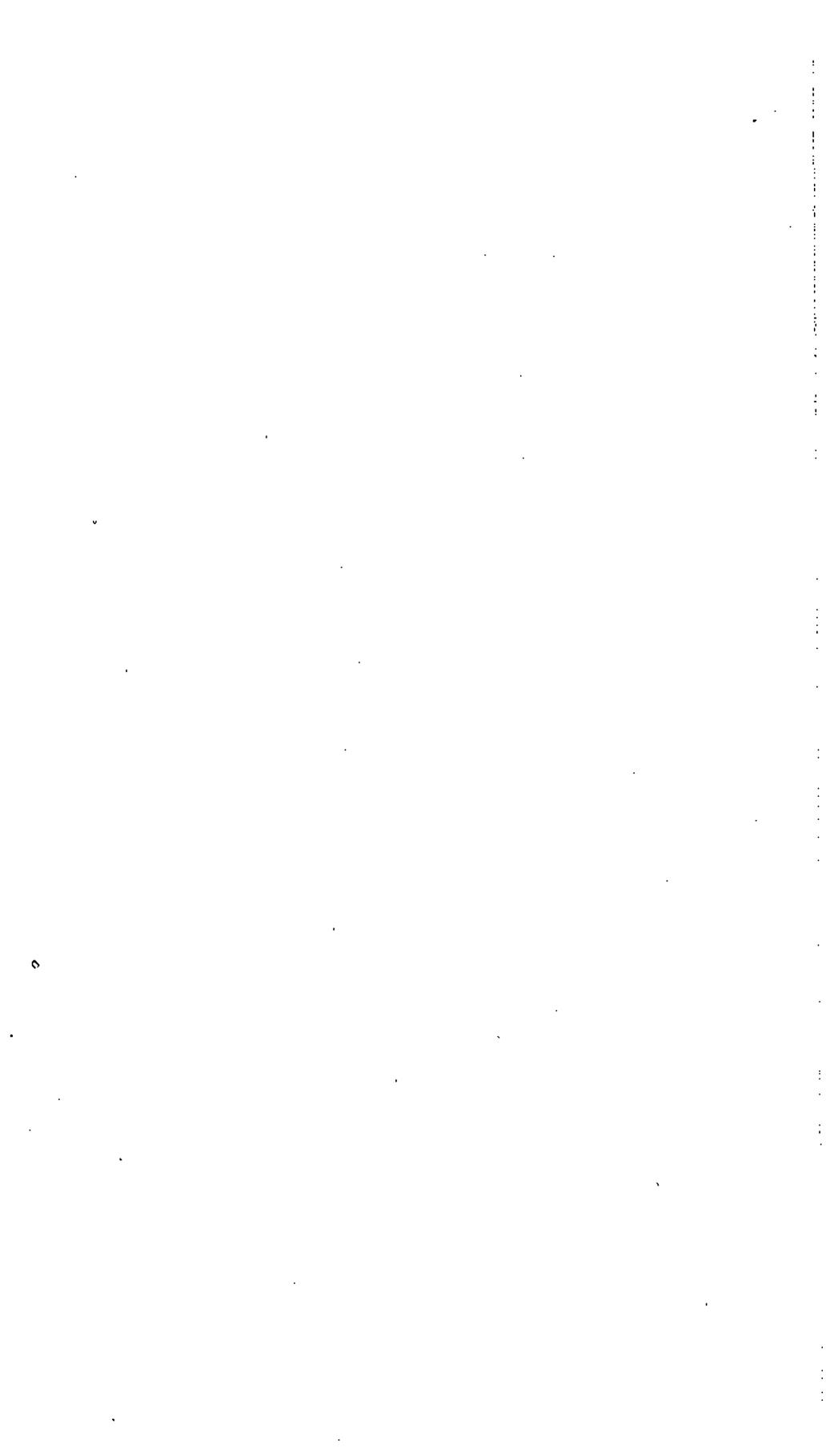
From among the three main components of a political system - the form of government (parliamentary versus presidential, and the mixed systems of the two); the electoral system; and the party system - the consequences of the structural features of the electoral setting are the most observable and measurable. The choice of the system affects the development of the party system, and in turn, the political content of the legislature. In Hungary the parliamentary system was associated with a mixed majoritarian-PR electoral system, which have survived since 1989 and two general elections were administered in its original - slightly altered - framework. The single-chamber national representative body is elected for four years, based on an individual constituency system combined with a territorial PR system and a PR on the national level; the latter upheld only for the sake of a better degree of proportionality. The system is highly selective in both phases of the electoral process. *As a result of the twofold selectivity the mixed Hungarian system is a markedly disproportional one.* This feature of the parliamentary electoral system is mainly caused by the inherent majoritarian nature of individual constituencies and the more hidden disproportionality of territorial lists. The majoritarian preponderance of the electoral system had far-reaching political consequences after the first multi-party elections. The present majoritarian-PR mixed system helps coalition formation, increases the degree of governability, but makes the political system less consensual, excluding minor parties from parliamentary representation. Furthermore, the author analyses the effects of the electoral system on the party structure and the political development as well.

SZIKINGER, ISTVÁN

HUNGARIAN LAW ENFORCEMENT AND THE EUROPEAN UNION

The paper begins with a concise overview of the development and structure of Hungarian policing. Following referral to the 'acquis communautaire', correspondence between European expectations and domestic legislation is examined. Special attention is paid to problems of individual liberties enshrined in the European Convention on Human Rights. Particular contradictions are pointed out especially in the field of deprivation of liberty. Another issue addressed by the paper is data protection with special regard to Recommendation R (87) 15, concerning use of personal data within the police sector which is confirmed as a set of legal rules both by the Schengen and Europol Conventions. Problems of border control with special regard to dual (police and military) status of the Hungarian Border Guard Service are analysed as well.

The author concludes that there are significant obstacles to smooth collaboration between Hungarian and EU countries. As a consequence of abortive reform initiatives in policing, Hungary has failed to meet important international standards. It is also emphasized that there is no substantial conflict between genuine needs of regional and domestic law enforcement. In other words, deficiencies can cause serious difficulties in co-operation with EU police forces without promising any perceivable success of fighting crime.



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